

REMARKS

At the time of the Office Action dated March 23, 2007, claims 1-18 were pending and rejected in this application. Claims 1-18 have been cancelled and rewritten as newly added claims 19-36.

CLAIMS 3-6, 9-12, AND 15-18 ARE REJECTED UNDER THE SECOND PARAGRAPH OF 35

U.S.C. § 112

On page 3 of the Office Action, the Examiner asserted these claims are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

Regarding the rejection of claims 3, 9, and 15, Applicant has amended the claim language to clarify that upon making a particular determination, one of the "functionalities" is performed. Regarding claims 12 and 18, Applicant has addressed this issue. Thus, Applicant respectfully submits that a rejection of the newly added claims based upon the second paragraph of 35 U.S.C. § 112 would not be proper.

CLAIMS 7-18 ARE REJECTED UNDER 35 U.S.C. § 101

On page 4 of the Office Action, the Examiner asserted that the claimed invention, as recited in claims 7-18, is directed to non-statutory subject matter. This rejection is respectfully traversed.

With regard to claims 13-18, the Examiner is specifically directed to M.P.E.P. § 2106.01, which states:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Newly presented claims 31-36 each recite a "computer program product recorded on computer readable medium." Since a computer readable medium is an article of manufacture, claims 31-36 are directed to statutory subject matter.

With regard to method claims 7-12, although issued as a patent prior the State Street Bank decision, reference is made to U.S. Patent No. 5,333,184 (hereinafter the '184 patent).

Claim 1 of the '184 patent is reproduced below:

1. A method for use in a telecommunications system in which interexchange calls initiated by each subscriber are automatically routed over the facilities of a particular one of a plurality of interexchange carriers associated with that subscriber, said method comprising the steps of:

generating a message record for an interexchange call between an originating subscriber and a terminating subscriber, and

including, in said message record, a primary interexchange carrier (PIC) indicator having a value which is a function of whether or not the interexchange carrier associated with said terminating subscriber is a predetermined one of said interexchange carriers.

Applicant has referred to the '184 patent because this patent was the subject of the decision by the Federal Circuit in AT&T Corp. v. Excel Communications, Inc.¹ The conclusion of the Federal Circuit with regard to the '184 patent is "we find that the claimed subject matter is

¹ 172 F.3d 1352, 50 USPQ2d 1447 (Fed. Cir. 1999).

properly within the statutory scope of 101." Newly presented claims 25-36 are also directed to a method, which is statutory subject matter under 35 U.S.C. § 101. Therefore, for the reasons stated above, Applicant respectfully submits that a rejection of the newly added claims based upon 35 U.S.C. § 101 would not be proper.

CLAIMS 1-3, 7-9, AND 13-15 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS

**BASED UPON AYYAGARI ET AL., U.S. PATENT NO. 7,020,681 (HEREINAFTER AYYAGARI), IN
VIEW OF PATEL, U.S. PATENT PUBLICATION NO. 2002/0107881**

On pages 5-7 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Ayyagari in view of Patel to arrive at the claimed invention. This rejection is respectfully traversed.

As recited in the claims, the claimed invention is directed to receiving a processing request from an application for a structured document. The structured document is then read and a lexical analysis is performed on the structured document to obtain a series of events related to the structured document in order. The series of events are stored, as event set information, in a cache. Upon the event set information being in the cache prior to the processing request being received, the application program is notified of the series of events related to the structured document in order based from the event set information in the cache.

As described in column 6, lines 21-26 (see also Fig. 5A) and column 7, lines 13-17 (see also Fig. 6A), "[i]f the document is cached ... the XML document is retrieved from the local cache of XML proxy server 200." On the contrary, the claimed invention recites that event set

information (which is produced via lexical analysis of the structured document) is obtained from cache.

Regarding the secondary reference of Patel, in the paragraph spanning pages 5 and 6 of the Office Action, the Examiner asserted the following:

Ayyagari teaches processing XML documents (col. 4 lines 50— 67), but fails to specifically teach series of events and event set information. However, Patel teaches the series of events and event set information associated with processing XML documents (¶ 35). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine these teachings because Ayyagari teaches processing XML documents and Patel teaches what is involved in processing XML documents.

Assuming arguendo that Patel actually teaches what the Examiner asserts Patel to teach, Patel fails to teach or suggest storing (and subsequently retrieving) series of events, as event set information, within a cache. Thus, even if one having ordinary skill in the art were motivated to modify Ayyagari in view of Patel, the claimed invention would not result.

CLAIMS 4-6, 10-12, AND 16-18 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS

BASED UPON AYYAGARI IN VIEW OF PATEL AND COULOURIS

On pages 6 and 7 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Ayyagari in view of Patel and Coulouris to arrive at the claimed invention. This rejection is respectfully traversed.

Claims 4-6, 10-12, and 16-18 respectively depend from independent claims 1, 9, and 15, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claims 1, 9, and 15 under 35 U.S.C. § 103 for obviousness based upon the combination of Ayyagari and Patel. The tertiary reference to Coulouris does not cure the argued deficiencies of the combination of Ayyagari and Patel. Accordingly, even if one having ordinary skill in the art

were motivated to modify Ayyagari in view of Patel and Coulouris, the proposed combination of references would not yield the claimed invention.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully requests reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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